

# MONTANA LEGISLATIVE HISTORY

Chapter 427 1985

Bill H 788 S \_\_\_\_\_

Original bill & history ☒ C

H. Committee on Business & Labor

Hearing Date(s) Feb 15 ☒ C

\_\_\_\_\_ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Date Out Feb 15 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Mar 15 ☒ C

Mar 22 ☒ C

\_\_\_\_\_ C

\_\_\_\_\_ C

Mar 22 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee \_\_\_\_\_

Report \_\_\_\_\_

# TRIBES OF THE FLATHEAD RESERVATION AND THE STATE OF MONTANA

|      |                                      |    |    |
|------|--------------------------------------|----|----|
| 2/08 | INTRODUCED                           |    |    |
| 2/08 | FIRST READING                        |    |    |
| 2/08 | REFERRED TO FISH & GAME              |    |    |
| 2/09 | FISCAL NOTE REQUESTED                |    |    |
| 2/14 | HEARING                              |    |    |
| 2/15 | FISCAL NOTE RECEIVED                 |    |    |
| 2/15 | FISCAL NOTE PRINTED                  |    |    |
| 2/16 | TABLED IN COMMITTEE                  |    |    |
| 2/20 | MOTION FAILED TO TAKE FROM COMMITTEE |    |    |
|      | AND PLACE ON 2ND READING             | 35 | 61 |
| 2/23 | MISSED TRANSMITTAL DEADLINE          |    |    |
|      | DIED IN COMMITTEE                    |    |    |

## HB 487 INTRODUCED BY HURDLE, ET AL. REPEAL THE MONTANA RETAIL MOTOR FUEL MARKETING ACT

|      |                                      |    |    |
|------|--------------------------------------|----|----|
| 2/09 | INTRODUCED                           |    |    |
| 2/09 | FIRST READING                        |    |    |
| 2/09 | REFERRED TO BUSINESS & LABOR         |    |    |
| 2/10 | FISCAL NOTE REQUESTED                |    |    |
| 2/14 | FISCAL NOTE RECEIVED                 |    |    |
| 2/14 | FISCAL NOTE PRINTED                  |    |    |
| 2/15 | HEARING                              |    |    |
| 2/16 | TABLED IN COMMITTEE                  |    |    |
| 2/20 | MOTION FAILED TO TAKE FROM COMMITTEE |    |    |
|      | AND PLACE ON 2ND READING             | 30 | 64 |
| 2/23 | MISSED TRANSMITTAL DEADLINE          |    |    |
|      | DIED IN COMMITTEE                    |    |    |

## HB 488 INTRODUCED BY TUSS, ET AL. PROHIBIT INSURERS FROM DENYING, CANCELING, FAILING TO RENEW, OR LIMITING COVERAGE OR BENEFITS ON AUTOMOBILE AND HOMEOWNER INSURANCE POLICIES BASED SOLELY ON AN INDIVIDUAL'S CREDIT HISTORY

|      |                                            |    |    |
|------|--------------------------------------------|----|----|
| 2/09 | INTRODUCED                                 |    |    |
| 2/09 | FIRST READING                              |    |    |
| 2/09 | REFERRED TO BUSINESS & LABOR               |    |    |
| 2/15 | HEARING                                    |    |    |
| 2/15 | COMMITTEE REPORT—BILL PASSED AS AMENDED    |    |    |
| 2/17 | 2ND READING PASSED                         | 80 | 17 |
| 2/18 | 3RD READING PASSED                         | 73 | 24 |
|      | TRANSMITTED TO SENATE                      |    |    |
| 2/21 | FIRST READING                              |    |    |
| 2/21 | REFERRED TO BUSINESS & INDUSTRY            |    |    |
| 3/15 | HEARING                                    |    |    |
| 3/23 | COMMITTEE REPORT—BILL CONCURRED AS AMENDED |    |    |
| 3/29 | 2ND READING CONCURRED                      | 48 | 1  |
| 3/30 | 3RD READING CONCURRED                      | 49 | 1  |
|      | RETURNED TO HOUSE WITH AMENDMENTS          |    |    |
| 4/04 | 2ND READING AMENDMENTS CONCURRED           | 84 | 13 |
| 4/05 | 3RD READING AMENDMENTS CONCURRED           | 78 | 22 |
| 4/07 | SIGNED BY SPEAKER                          |    |    |
| 4/08 | SIGNED BY PRESIDENT                        |    |    |
| 4/10 | TRANSMITTED TO GOVERNOR                    |    |    |
| 4/13 | SIGNED BY GOVERNOR                         |    |    |
|      | CHAPTER NUMBER 427                         |    |    |
|      | EFFECTIVE DATE: 10/01/95                   |    |    |

House BILL NO. 488

INTRODUCED BY

Heavy Runner Marshall Munro - Heavy Runner Munro

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING INSURERS FROM DENYING, CANCELING, FAILING TO RENEW, OR LIMITING COVERAGE OR BENEFITS ON AUTOMOBILE AND HOMEOWNER INSURANCE POLICIES BASED SOLELY ON AN INDIVIDUAL'S CREDIT HISTORY; AND AMENDING SECTION 33-18-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-210, MCA, is amended to read:

"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety insurances. (1) A title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) An insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) This section may not be construed as prohibiting the payment of commissions or other compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning

1 lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or  
2 subscribers.

3 (5) An insurer may not make or permit unfair discrimination between individuals or risks of the  
4 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
5 limiting the amount of insurance coverage on a property or casualty risk because of the geographic location  
6 of the risk, unless:

7 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
8 unfair discrimination; or

9 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

10 (6) An insurer may not make or permit unfair discrimination between individuals or risks of the  
11 same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or  
12 limiting the amount of insurance coverage on a residential property risk, or the personal property contained  
13 ~~therein~~ in the residential property, because of the age of the residential property, unless:

14 (a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for  
15 unfair discrimination; or

16 (b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

17 (7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of  
18 coverage available to an individual because of the sex or marital status of the individual, but an insurer may  
19 take marital status into account for the purpose of defining persons eligible for dependents' benefits.

20 (8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a  
21 property or casualty policy or contract of insurance solely because the applicant or insured or any employee  
22 of either is mentally or physically impaired; ~~however~~ However, this subsection does not apply to accident  
23 and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any  
24 other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy  
25 or contract.

26 (9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit  
27 the amount of coverage available to an individual based solely on adverse information contained in a driving  
28 record that is 3 years old or older.

29 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
30 because of a claim submitted under the insured's policy if the insured was not at fault.

-END-

this bill. The authorization of an administrative fine is different from the other administrative fining bills because this indicates that upon a decision that a licensee is violated and not able to practice with reasonable skill and safety must be followed by a hearing or pursuant to an agreement by the licensee. The bill specifies the board may, under the guidelines, develop rules regarding continuing education, etc.

Closing by Sponsor:

The sponsor closed.

TAPE 2, SIDE B

HEARING ON HB 488

Opening Statement by Sponsor:

REP. TUSS said this bill denies insurance companies the right from using credit as a sole deterrent of whether that person is insurable for auto insurance and homeowners insurance. There are people who have been denied automobile insurance based upon adverse credit. It also affects people who have applied for homeowners insurance. A credit history is limited to a debt history and does not include any other public information. She also supplied copies of letters from the Intermountain Mortgage Company and Trinity Universal Credit Analysis. **EXHIBIT 14**

Proponents' Testimony:

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, said they support this bill. Credit history should not be the sole criteria used in underwriting of an insurance policy for personal auto and homeowners.

Jacqueline Lenmark, American Insurance Association, said she was also speaking for Larry Akey, National Association for Independent Insurers. They supported this bill and will continue to support it as long as they are permitted to use credit history in some measure in rating a policy. That is an important factor but it should not be used as the sole factor.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

The sponsor closed.

gambling endorsement they don't need to use the gambling license. That is their choice.

Vote: Motion failed to pass 5-13 with REPS. SIMON, ELLINGSON, EWER, MARSHALL and TUSS voting yes.

Motion/Vote: REP. PAVLOVICH MOVED TO TABLE HB 495. Motion carried 13-5 with REPS. SIMON, ELLINGSON, EWER, MARSHALL and TUSS voting no.

EXECUTIVE ACTION ON HB 527

Motion/Vote: REP. LARSON MOVED HB 527 DO PASS. Motion carried 12-6 with REPS. HERRON, BARNETT, EWER, MARSHALL, SIMON and KEENAN VOTING NO.

EXECUTIVE ACTION ON HB 488

Motion: REP. TUSS MOVED HB 488 DO PASS. REP. TUSS MOVED THE AMENDMENTS.

Vote: Motion carried to adopt the amendments 18-0.

Motion/Vote: REP. TUSS MOVED HB 488 DO PASS AS AMENDED. Motion carried 18-0.



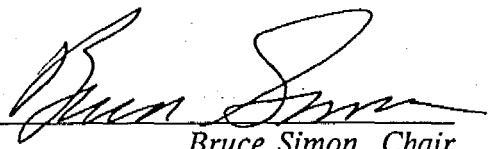
## HOUSE STANDING COMMITTEE REPORT

February 15, 1995

Page 1 of 1

Mr. Speaker: We, the committee on Business and Labor report that House Bill 488 (first reading copy -- white) do pass as amended.

Signed:

  
Bruce Simon, Chair

And, that such amendments read:

1. Page 3, line 10.  
Following: "insurer"  
Strike: "or its agent"

-END-

Committee Vote:  
Yes 18, No 0.

391424SC.Hbk



EXHIBIT 14  
DATE 2-15-95  
HB 488



February 10, 1995

Ms. Carley Tuss  
Montana State House of Representatives  
Capital Station  
Helena, MT 59620

Dear Carley:

I am president of Intermountain Mortgage Co., Inc., in Billings Montana. I am writing to you today because of some serious concerns that I have regarding a recent practice by a number of insurance companies writing homeowners insurance coverage in Montana for Montana citizens. Apparently a number of insurance company underwriters are beginning the use of consumer credit reports in assessing their companies risk in writing homeowners policies. Presumably, they feel that a poor credit history greatly increases the risk of large and unwarranted claims being filed against the insurance policy. I have personal experience with two companies, but believe that this practice is becoming increasingly more widespread.

Intermountain Mortgage Co., Inc. is a locally owned and operated mortgage banking firm whose purpose is the origination and servicing of residential first mortgages, i.e. home loans. For obvious reasons we require an insurance binder for a property, in an amount equal to or greater than the loaned amount. Typically these binders are provided to us a few days before, or on the day of loan closing. Rarely do we receive a Notice of Cancellation, immediately after loan closing.

However, over the last month, we have had two separate borrowers who were cancelled by their insurance company after closing, and one borrower who was declined for coverage immediately prior to closing. In all three cases the insurance company cited the reason "adverse financial concern on a credit report", (See attachments). And that is the source of my concern.

In all three cases, the borrowers were applying for loans under the Montana Board of Housing program, a program which provides home financing for low to median income families, through the sale of tax exempt revenue bonds. These loans are insured by the

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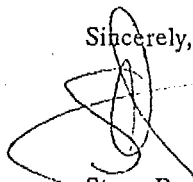
you can depend on.



Federal Housing Administration, and are processed and underwritten accordingly. These borrowers are usually first time homebuyers, and while some may have had credit problems in the past, have cleaned up their credit sufficiently to qualify for these loans. These are not poor credit risk borrowers, but I have some concerns that they are being treated as such by the insurance companies. I am not convinced that credit difficulties, or in some cases a lack of credit, constitutes a greatly enhanced risk on the part of the insurance companies. While I believe that the use of this credit information could in some cases be useful in finding a potential problem, I am also absolutely convinced that it is being misapplied here. I find it very ironic that these applicants can qualify for a mortgage to buy a house, but are denied insurance coverage for it.

I have included a *Notice of Cancellation*, and an internal memo provided to me by our Servicing Manager, as it relates to one of these files. I am concerned that these insurance companies are making arbitrary and capricious decisions about the credit worthiness of this class of borrowers, or homeowners, and are discriminating against them as a class. These borrowers generally tend to be younger, and are earning less than the average Montana homebuyer.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steve Redinger', with a large, loopy flourish extending from the bottom left.

Steve Redinger  
President

SR/sr  
Encl

c: Erin McCarthy  
file

EXHIBIT 14  
DATE 2-15-95  
HB 488

January 12, 1995

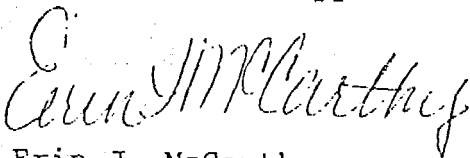
RE: Trinity Universal  
"Credit Analysis"

ATTN: Steve Redinger

Following is the information I have gathered from Hoiness LaBar and Roybal Insurance agencies, on the new "Credit Analysis" used by Trinity Universal.

- \* Security National is the Co. that Writes the Policies for Trinity Universal.
  - Contact - John Bose 1-800-950-5547
- \* They are figuring the "Credit Analysis" taking into consideration such items as:
  - Property Value
  - Income
  - Credit Information from Equi - Fax
  - Prior Homeowners Insurance
- \* The "Credit Analysis" is based on a scale from 200 - 900. Anything lower than 620 is canceled.
- \* This is a nation wide system and not just our region.
- \* This does not effect existing policies.

Attached is a copy of the cancellation notice for Woods.



Erin J. McCarthy  
Loan Servicing Manager

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Business & Labor

DATE 2-15-95

BILL NO. 488

SPONSOR(S) \_\_\_\_\_

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

| NAME AND ADDRESS   | REPRESENTING                             | Support | Oppose |
|--------------------|------------------------------------------|---------|--------|
| Ron Goklatrang     | State Farm Ins                           | ✓       |        |
| Ward Kananah       | James Insurance                          | ✓       |        |
| Roger McGINN       | INDEPENDENT INS.<br>AGENTS' ASSOC. OF MT | ✓       |        |
| Frank Cote         | STI Auditor                              | ✓       |        |
| Jacqueline Denmark | Am. Ins. Ass'n                           | ✓       |        |
| Robert L. Richards | LA TRATTORIA REST                        |         |        |
| Harry Akoy/jntel   | NAII                                     | ✓       |        |
| Anne Alberts       | MT. ASSOC. OF<br>REALTORS                | monitor |        |
|                    |                                          |         |        |
|                    |                                          |         |        |
|                    |                                          |         |        |
|                    |                                          |         |        |
|                    |                                          |         |        |

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FOR  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

SEN. BILL WILSON asked Mr. Cote to clarify the case of a fender-bender on a slick street with no tickets issued to either driver, would the claim be used against the driver for purposes of future discounts. Mr. Cote stated for the purposes of those discounts, even though claims record instead of driving record was used, this law allowed the insurance company to withhold the discount.

Closing by Sponsor:

REP. BOHARSKI in closing stated he had introduced the bill but he didn't necessarily agree with the 3 years personally. He thought the insurance company ought to be able to check back further than the 3 years. He maintained it was not the policy of the State of Montana; however, he thought since he was a good driver over an extended period of time, the discount would be appropriate based on that record. He said based on the questions SEN. SPRAGUE and SEN. BENEDICT brought up, go back to the driving record language, stay with claims history, or perhaps go to a combination of both.

EXECUTIVE ACTION ON HB 372

Motion/Vote: SEN. STEVE BENEDICT MOVED HB 372 BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on voice vote.

HEARING ON HB 488

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, Great Falls, presented HB 488 which addressed the problem of insurance coverage denial, both for auto liability and home owners insurance based on their credit history. In talking with those people that this happened to, most were quite embarrassed. She stated some cited a single adverse episode in their credit history and some, of course, had more lingering problems. Initially, auto liability insurance denial had come to her attention. Upon further investigation and after receiving a letter from the President of Intermountain Mortgage Company, Inc., in Billings, copies of which were given to the committee members, EXHIBIT #1, cited three people who had applied for federally guaranteed loans for neighborhood housing who were initially promised insurance and then were cancelled. She alleged in two of those instances, the insurance was cancelled after the deal was consummated. She conveyed their history had been sufficient to get the loan, but because the insurance companies checked over the whole credit history time interval and made judgements, that insurance was denied.

REP. TUSS stated, in working with the Insurance Commissioner's Office, they realized sometimes credit issues were problematic. People sometimes didn't have explanations on their credit history and then checked with the insurance company after denial of the

insurance and got nowhere. REP. TUSS said that was what they were trying to address on HB 488.

REP. TUSS remarked in working with the insurance industry, they too had concerns about the way insurance and credit were being tied. She said a representative from the Insurance Commissioner was here to testify. Larry Akey representing the insurance companies had some amendments from the NAII, which she was friendly to, but they didn't do quite what she was trying to do. Mr. Akey had agreed to work with her within the next couple days. She stated, if it was a single credit event for an unrenovable type of insurance, they should not have insurers denying credit after a loan had been consummated and they would work toward that end.

Proponents' Testimony:

Larry Akey, National Association of Independent Insurers (NAII), said they supported the notion that credit history ought not be the sole reason for an adverse insurance activity; however, there was substantial documentation that showed the credit history was one of the many factors that played in an insurance company's decision to offer insurance, or decision to continue offering the insurance product through that consumer.

Mr. Akey presented the amendments REP. TUSS referred to, EXHIBIT #2. He explained the three things accomplished with those amendments and the fourth thing the amendments didn't accomplish, but he would work with the sponsor to try to fix. He stated on Page 3 of the bill, it stated the company had to do three things before they could use credit history in their decision. He said the first thing was to show that individual credit history presented a substantial risk, (i) line 10. They suggested replacing that with language stating the company must demonstrate with substantial documentation that credit history was correlated with the risk to be insured or that had been insured.

Mr. Akey stated (ii) the bill, at present, asked them to provide the reason why that coverage was declined or cancelled. In fact, the way credit histories worked for insurance companies, they were sent to a third party vendor for information on credit history. They would ask that vendor to rate the individual. They would run the individual credit history along with a number of other factors used in rating or confirming whether to issue that coverage through a sophisticated computer system that may have 30 or more variables involved and they received a report that stated the individual was a good risk, an acceptable risk, or an unacceptable risk. They didn't know the specific credit event that caused the report to come back. He maintained what they told the applicant, the action taken was based on the credit information of that individual.

Mr. Akey said (iii) on receipt of the request from the insured or applicant that a credit report be sent and they didn't want the

subsequent request to be open-ended, so the amendment, as proposed, stated 10 days. He stated if the committee would be more comfortable with another number that would be fine; however, they thought there needed to be some closed end in which the individual, insured, or applicant, made that request to the company.

Mr. Akey stated those were the three things the amendments before the committee accomplished. He visited with REP. TUSS this morning on the potential need for a 4th amendment not before the committee. He said that amendment would state, particularly in the event of nonrenewal, it was the result of credit history. This bill didn't give the insured any real protection in the event the company stated they would not renew because of credit history. He said this bill stated they had to give them the information and they could non-renew anyway. They believed it would be more fair for the consumer if there were an opportunity for that consumer, through some type of specified appeals process, to let the circumstances be brought out and during that process, the policy remained in effect. He would work with the sponsor to give the consumer additional protection. They would ask HB 448 be concurred in with the proposed amendments.

Jim Lippert, Farmers Insurance Group, said he hadn't been privy to the amendment stated before, but would like to work with the sponsor and Mr. Akey on that amendment. He stated their concern primarily was with homeowners' insurance. He related they did not use credit histories in determining risks or rates on auto policies. He said they did; however, use credit history in determining the risk on whether to accept or reject a property risk. He declared, restricting the source of information in determining risks, harmed the business and in the long term harmed the consumer.

Mr. Lippert contended credit history and credit report information of an applicant was significantly correlated to expected losses during the coverage term. Farmers Insurance did not use credit histories to determine the applicants rate. He said credit history reports were not used to charge an existing applicant a higher rate. He declared Farmers Insurance did use credit histories to determine risk on property, but didn't use them as far as auto policies were concerned. They supported the bill if some amendments would be implemented to address those issues.

Roger McGlenn, Executive Director, Independent Insurance Agents Association of Montana, stated they were in support of HB 488 and thanked REP. TUSS for bringing this issue to their attention and discussing it with them prior to introduction of the bill. He said credit history was an important underwriting tool. They had, as independent insurance agents, experienced in some cases abuses of the use of credit history. They believed it was a problem when used as a sole reason for underwriting. There was evidence that documentation of the actual effect of

credit history should be used in a responsible, meaningful fashion and well documented. They thought this was a very responsible bill and they supported it in the introduced form.

Mr. McGlenn just saw the amendments this morning that Mr. Akey had proposed and had spoken to him briefly about them. He asked REP. TUSS if the independent agents could also be involved in the discussion process of proposed amendments. They asked the committee for a do concur motion in support of HB 488.

Jacqueline Lenmark, American Insurance Association (AIA), stated they stood in strong support of HB 488. They supported HB 488 in the House and also very strongly supported the written amendments proposed and the amendments that were verbalized by Mr. Akey. She knew this committee in the past had questions about amendments requested in the second hearing of a bill and she would like the committee to know this bill was heard late in the House, before transmittal, while many of them were in other hearings at the same time. She hoped the committee would give the amendments careful consideration. She thought they strengthened the bill for consumers and they strengthened the bill for insurance companies. She stated, this was another tool the companies used to more precisely price their product; the AIA asked the committee to give the bill a do concur recommendation.

Frank Cote, Deputy Insurance Commissioner, State Auditor's Office, said they too supported HB 488. He maintained as this committee had heard him state before, the insurance department tended to be the front line of those complaints when abuse happened in the marketplace. He said there had been complaints and abuses in the marketplace with insurance companies using credit histories as their only underwriting characteristic. He related a recent example of that was a person who purchased a home similar to the Habitat to Humanity Program, and as part of the requirement had to insure it. She couldn't get the home insured because of her credit history. She said HB 488 helped that type of situation and still allowed insurance companies to do the proper underwriting they should be allowed to do.

Cindy Clawson, Professional Insurance Agents of Montana, expressed their association also supported the bill with the amendments. The committee had heard several times how important the credit history was in revealing the risks. She said it was an important bill and the amendments were important to ensure they properly protected the consumer, the agents, and the State of Montana.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

SEN. CASEY EMERSON asked Frank Cote if the legislature was not getting a little too far into managing company policy (with the request of the companies) and shouldn't more of this be left for



the market to decide. Mr. Cote explained, in a perfect world that would be the case, but what HB 488 accomplished was to allow the insurance companies to continue using that in their underwriting process, which was very important, and would not limit their underwriting process.

SEN. EMERSON asked, in follow-up, if Mr. Cote didn't think this was a perfect place. Mr. Cote stated this was as close to being perfect as he had ever seen.

SEN. TERRY KLAMPE asked Larry Akey if their insurance companies had computers with data sufficient to significantly correlate those risks with the type of credit history they came up with. Mr. Akey stated he would give one example. He said one company, a member of their association, had done an analysis of a number of factor protecting risks, including credit histories on a sample of 400,000 insureds within their company, checking about 30 different factors. That was a pretty sizeable data base. The results of the study indicated with that type of risk, credit history was the number 1 predictor of loss; above anything else that was checked. A standard of substantial documentation of significant correlation was a pretty stiff standard, but he thought their companies ought to be forced to live with that standard if they wanted to use credit histories in their underwriting decisions.

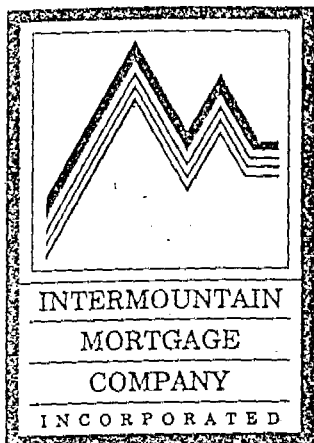
SEN. KLAMPE questioned Mr. Cote, along the same line, did their office require that an insurance company could prove they had this capability as statistically correlating the significance. Mr. Cote conveyed what they required insurance companies in the property casualty arena was to file documentation to support their rates. He stated that may include some of the information SEN. KLAMPE was requesting. He said if they didn't have, what they considered was enough documentation, they were asked for more documentation. He maintained if they found their rates were either excessive or inadequate, they were asked to review their rates and refile.

Closing by Sponsor:

REP. TUSS thanked the committee and wished it were a perfect world. She wanted to remind the committee she wasn't trying to regulate the marketplace. She stated she was not trying to eliminate a valid and valuable tool. She commented, as legislators, it was their intent that tools be used in a responsible manner. She said members of the insurance industry thought there were times when the credit history was not used in a responsible manner and it reflected poorly on their industry. REP. TUSS said they wanted the opportunity to ensure their industry was one to be proud of and an asset in the business community.

February 10, 1995

Ms. Carley Tuss  
Montana State House of Representatives  
Capital Station  
Helena, MT 59620



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Dear Carley:

I am president of Intermountain Mortgage Co., Inc., in Billings Montana. I am writing to you today because of some serious concerns that I have regarding a recent practice by a number of insurance companies writing homeowners insurance coverage in Montana for Montana citizens. Apparently a number of insurance company underwriters are beginning the use of consumer credit reports in assessing their companies risk in writing homeowners policies. Presumably, they feel that a poor credit history greatly increases the risk of large and unwarranted claims being filed against the insurance policy. I have personal experience with two companies, but believe that this practice is becoming increasingly more widespread.

Intermountain Mortgage Co., Inc. is a locally owned and operated mortgage banking firm whose purpose is the origination and servicing of residential first mortgages, i.e. home loans. For obvious reasons we require an insurance binder for a property, in an amount equal to or greater than the loaned amount. Typically these binders are provided to us a few days before, or on the day of loan closing. Rarely do we receive a Notice of Cancellation, immediately after loan closing.

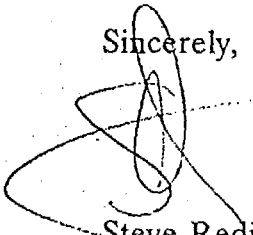
However, over the last month, we have had two separate borrowers who were cancelled by their insurance company after closing, and one borrower who was declined for coverage immediately prior to closing. In all three cases the insurance company cited the reason "adverse financial concern on a credit report", (See attachments). And that is the source of my concern.

In all three cases, the borrowers were applying for loans under the Montana Board of Housing program, a program which provides home financing for low to median income families, through the sale of tax exempt revenue bonds. These loans are insured by the

Federal Housing Administration, and are processed and underwritten accordingly. These borrowers are usually first time homebuyers, and while some may have had credit problems in the past, have cleaned up their credit sufficiently to qualify for these loans. These are not poor credit risk borrowers, but I have some concerns that they are being treated as such by the insurance companies. I am not convinced that credit difficulties, or in some cases a lack of credit, constitutes a greatly enhanced risk on the part of the insurance companies. While I believe that the use of this credit information could in some cases be useful in finding a potential problem, I am also absolutely convinced that it is being misapplied here. I find it very ironic that these applicants can qualify for a mortgage to buy a house, but are denied insurance coverage for it.

I have included a *Notice of Cancellation*, and an internal memo provided to me by our Servicing Manager, as it relates to one of these files. I am concerned that these insurance companies are making arbitrary and capricious decisions about the credit worthiness of this class of borrowers, or homeowners, and are discriminating against them as a class. These borrowers generally tend to be younger, and are earning less than the average Montana homebuyer.

Sincerely,



Steve Redinger  
President

SR/sr  
Encl

c: Erin McCarthy  
file

DATE March 15, 1995

SENATE COMMITTEE ON Business and Industry

BILLS BEING HEARD TODAY: HB 372 Rep. McKee  
HB 387 Rep. Bohanowski HB 488 Rep. Tuss

< ■ > PLEASE PRINT < ■ >

Check One

| Name             | Representing        | Bill No. | Support | Oppose |
|------------------|---------------------|----------|---------|--------|
| Greg Van Horssen | State Farm Ins      | HB 387   | ✓       |        |
| Jim Lippert      | FARMERS INS         | HB 488   | ✓       |        |
| Roger McGlen     | IIAM                | HB 488   | ✓       |        |
| Cindy Clawson    | PIA                 | HB 488   | ✓       |        |
| LARRY AKET       | NAII                | HB 488   | AMEND   |        |
| Mary Fehr        |                     | 372      | X       |        |
| Julie Denmark    | Am. Ins. Assoc.     | HB 387   | ✓       |        |
| Julie Denmark    | Am. Ins. Assoc.     | HB 488   | amend   |        |
| Melissa Buhl     | State Auditor's Ofc | HB 372   | X       |        |
| Frank Cote       | ST. Auditor         | HB 488   | ✓       |        |
|                  |                     |          |         |        |
|                  |                     |          |         |        |
|                  |                     |          |         |        |
|                  |                     |          |         |        |

### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

**AMENDMENTS TO HOUSE BILL 488**

Third Reading Copy

Requested by the National Association of Independent Insurers

1. Page 3, lines 10 and 11.  
Strike subsection (i) in its entirety.  
Insert: "(i) the insurer possesses substantial documentation that credit history is significantly correlated with the types of risks insured or to be insured;"
2. Page 3, line 12.  
Strike: "the reason"
3. Page 3, line 13.  
Following: "benefits"  
Insert: "because of credit information relating to the applicant or insured"
4. Page 3, line 15.  
Following: "individual"  
Insert: "mailed within 10 days of receipt of the declination or nonrenewal,"
5. Page 3, line 16.  
Following: "issue"  
Insert: ", or the name and address of a third party where the individual may obtain a copy of credit report,"

MINUTES

MONTANA SENATE  
54th LEGISLATURE - REGULAR SESSION  
COMMITTEE ON BUSINESS & INDUSTRY

Call to Order: By CHAIRMAN JOHN HERTEL, on March 22, 1995, at  
8:00 a.m. .

ROLL CALL

Members Present:

Sen. John R. Hertel, Chairman (R)  
Sen. Steve Benedict, Vice Chairman (R)  
Sen. William S. Crismore (R)  
Sen. C.A. Casey Emerson (R)  
Sen. Ken Miller (R)  
Sen. Mike Sprague (R)  
Sen. Gary Forrester (D)  
Sen. Terry Klampe (D)  
Sen. Bill Wilson (D)

Members Excused: N/A

Members Absent: N/A

Staff Present: Bart Campbell, Legislative Council  
Lynette Lavin, Committee Secretary

Please Note: These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None  
Executive Action: HB 488 BE CONCURRED IN AS AMENDED  
HB 518 BE CONCURRED IN AS AMENDED  
HB 574 BE CONCURRED IN AS AMENDED

EXECUTIVE ACTION ON HB 488

Motion: SEN. STEVE BENEDICT MOVED TO FURTHER AMEND HB 488.

Discussion: SEN. BENEDICT commented that there was a problem with amendment 2. SEN. KEN MILLER had a problem with striking the words "the reason". He related Page 3, line 12, of the bill stated the insurer sends written communication to the individual disclosing the reason why the insurance coverage was declined. The consensus of the committee was that the insured should be given the reason for the refusal of insurance coverage. He said the insurer did not know the reason because he did not prepare the credit report. He maintained the individual who was applying could go back to the credit bureau and receive the necessary information.

SEN. GARY FORRESTER stated the insurance company made the determination to deny insurance coverage.

SEN. CASEY EMERSON commented the client would not know the reason for denial. He said if the insurer stated the reason as a poor credit rating, the individual would know how to correct the situation.

Larry Akey, National Association of Independent Insurers, stated amendments 2 and 3 together would accomplish what the committee was hoping to accomplish. He related the insurer must notify the applicant in writing that their policy had been nonrenewed because of credit information pertaining to the applicant or the insured. He said their concern with the original language "the reason" was somewhat ambiguous and required the insurance company to provide information which they did not have access to.

SEN. FORRESTER asked who decided whether the credit risk was the problem and Mr. Akey commented they had no problem telling people they had been declined or nonrenewed because of credit information relating to the applicant. Their concern was an applicant wanting to know why his credit risk was a problem. He said the insurance company had no specifics on that information.

SEN. BENEDICT clarified page 3, line 13, the amendment would read, "the insurance coverage was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit information relating to the applicant or the insured". He also clarified that he had no problem with amendment 4. He expressed on Page 3, line 15, the amendment would read, "(iii) upon subsequent request of the individual, mailed within 10 days of the receipt of the declination or nonrenewal, the insurer provided the individual with a copy of the credit report at issue within 10 days of receipt of the request."

Vote: The motion CARRIED on oral vote with SEN. FORRESTER and SEN. BILL WILSON voting "NO".

Motion/Vote: SEN. BENEDICT MOVED HB 488 AS AMENDED BE CONCURRED IN. The motion CARRIED UNANIMOUSLY on oral vote. SEN. FORRESTER will carry the bill on the Senate floor.

#### EXECUTIVE ACTION ON HB 518

Motion: SEN. BENEDICT MOVED TO AMEND HB 518. (Amendment document name hb051801.agp)

Discussion: SEN. WILSON asked what was the "Heritage of Montana Enterprise Act". SEN. BENEDICT stated all duties and functions of the advisory council established by the Heritage Act could be preformed by an existing advisory board appointed by the

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
March 22, 1995

MR. PRESIDENT:

We, your committee on Business and Industry having had under consideration HB 488 (third reading copy -- blue), respectfully report that HB 488 be amended as follows and as so amended be concurred in.

Signed: John Hertel  
Senator John R. Hertel, Chair

That such amendments read:

1. Page 3, lines 10 and 11.

Strike: "the credit" on line 10 through "guidelines" on line 11

Insert: "the insurer possesses substantial documentation that credit history is significantly correlated with the types of risks insured or to be insured"

2. Page 3, line 12.

Strike: "the reason"

3. Page 3, line 13.

Following: "benefits"

Insert: "because of credit information relating to the applicant or the insured"

4. Page 3, line 15.

Following: "of the individual."

Insert: "mailed within 10 days of receipt of the denial, nonrenewal, or limitation,"

5. Page 3, line 16.

Following: "issue"

Insert: " or the name and address of a third party from whom the individual may obtain a copy of the credit report,"

-END-

PV  
Amd. Coord.  
Sec. of Senate

Sen. Gary Forrester  
Senator Carrying Bill

661517SC.SPV